



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,256	04/09/2001	Jeffrey Dinkel	DINK1	7582

6980 7590 10/08/2002

TROUTMAN SANDERS LLP  
BANK OF AMERICA PLAZA, SUITE 5200  
600 PEACHTREE STREET, NE  
ATLANTA, GA 30308-2216

EXAMINER

TRAN A, PHI DIEU N

ART UNIT	PAPER NUMBER
----------	--------------

3637

DATE MAILED: 10/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/829,256

Applicant(s)

DINKEL, JEFFREY *h*

Examiner

Phi D A

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 20-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: \_\_\_\_\_

Art Unit: 3637

The election to group I pertaining to claims 1-19 without traverse is hereby confirmed.

Claims 20-35 are withdrawn from further consideration.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 8, 13-16, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mathieu (0000738) in view of Dinkel (3284980).

Mathieu (figure 9) discloses a construction element having a core (10) having an upper principal surface and a lower principal surface, a membrane (2) on the lower principal surface of the core to protect the panel, alkaline resistance fibre to be used with a Portland cement, having additive of expanded shale (col 10 line 3 third paragraph), a pervious upper reinforcement material on the upper principal surface of the core, a cement slurry binding the reinforcement layer on the upper surface of the core, the layer comprising a fiberglass mesh with an alkaline resistant coating selected from the group consisting of woven fiberglass and fiberglass scrim.

Mathieu does not show the core having alkaline resistance fibre, and the membrane being impervious and high tensile strength.

Dinkel discloses fibre in the core to reinforce the core.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Mathieu to show the core having alkaline resistance fibre, and the membrane

Art Unit: 3637

being impervious because fibre would reinforce and strengthen the core as taught by Dinkel, and having the membrane being impervious and high tensile strength would protect the panel against moisture and water.

3. Claims 2, 7, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mathieu (0000738) in view of Dinkel (3284980).

Mathieu as modified by Dinkel shows all the claimed limitations except for the fibre being chopped reinforcement fibers randomly dispersed in the core.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Mathieu's modified structure to show the fibre being chopped reinforcement fibers randomly dispersed in the core because using chopped fibers randomly distributed on a core to reinforce a core is well-known in the art as it provides high strength to the core while maintaining low distribution cost.

4. Claims 3-6, 9-12, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mathieu (0000738) in view of Dinkel (3284980).

Mathieu as modified by Dinkel shows all the claimed limitations except for the membrane being a reinforced polymer membrane, spunbonded olefin, alkaline resistant dense polymer fiber mat, or the membrane having waterproof paperboard.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Mathieu's modified structure to show the membrane being a reinforced polymer membrane, spunbonded olefin, alkaline resistant dense polymer fiber mat, or the membrane having waterproof paperboard because it has been held to be within the general skill

Art Unit: 3637

of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows panels with different layers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Phi Dieu Tran A  
September 30, 2002



LANNA MAI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

